

Appl. No. 09/976,312
Amdt. Dated June 8, 2004
Reply to Office Action of March 9, 2004

• • R E M A R K S / A R G U M E N T S • •

The present Preliminary Amendment is being filed together with a Request for Continued Examination (RCE) of the present application.

By the present amendment, independent claim 1 has been changed to recite a pair of spaced apart substantially inelastic guide zones each of which pair member comprises a discrete array of discrete inelastic portions of the elastically stretchable sheet members.

Support for this change to independent claim 1 can be readily found in Figs 1 and 2.

Also by the present amendment, claim 3 has been change to recite that the inelastic guide zones comprise inelastic strips of sheet material that have surface areas and are superimposed over continuous surface areas of one of the non-woven fabrics which superimposed continuous surface areas are coextensive with the surface area of the substantially inelastic strips.

Support for this change to independent claim 3 can be readily found in Figs. 5 and 6.

Entry of the present Preliminary Amendment prior to continued examination of the application is respectfully requested.

In the Office Action of March 9, 2004 the Examiner rejected claims 1, 2, 4, 8-10 and 12 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,591,155 to Nishikawa et al.

Claims 1, 4 and 6-8 were rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 4,940,464 to Van Gompel et al.

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Claim 5, 11 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nishikawa et al. in view of U.S. Patent No. 4,936,840 to Proxmire.

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Van Gompel et al.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Van Gompel et al. in view of Proxmire.

As the Examiner has stated on page 7 of the Office Action of March 9, 2004:

The claims merely disclose that the inelastic guide zone comprise an array. The articles of Nishikawa and Van Gompel each have two inelastic guide zones that together comprise an array.

By the present Preliminary Amendment, independent claim 1 has been changed to recite a pair of inelastic guide zones and to further recite that each one of the pair of inelastic guide zones comprises a discrete array of discrete inelastic portions of the elastically stretchable sheet members.

This means that applicants' independent claim 1 requires a pair of discrete arrays of inelastic guide members.

The manner in which the Examiner has relied upon Nishikawa et al. and Van Gompel et al. has having two inelastic guide zones that together comprise an array is no longer relevant to applicants' claimed invention.

Neither Nishikawa et al. nor Van Gompel et al. teach a pair of discrete arrays of inelastic guide members.

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With regard to claim 3, it is noted that the Examiner had relied upon Van Gompel et al. as teaching guide zones 28 that "are bonded to the inner surface of the elastically stretchable sheet members 24, as shown in figure 1."

The Examiner's interpreted "guide zones 28" of Van Gompel et al. are actually "intermediate members 28" that are connected between side member 24 and side member 26.

Claim 3 requires inelastic guide zones that comprise inelastic strips of sheet material that have surface areas and which are superimposed over continuous surface areas of one of the non-woven fabrics which superimposed continuous surface areas are coextensive with the surface area of the substantially inelastic strips.

The "intermediate members 28" of Van Gompel et al. are only bonded at opposite edges to side members 24 and 26.

Accordingly, "intermediate members 28" are not superimposed over a coextensive area of either side member 24 or side member 26.

Therefore, it is submitted that Van Gompel et. al cannot be relied upon as anticipating or otherwise rendering obvious the limitations of applicants' claim 3 or any claim depending therefrom.

The Examiner has relied upon Proxmire as teaching the use of an elastically stretchable sheet material as a liquid-impermeable backsheet.

It is submitted that the Examiner's further reliance upon Proxmire does not address or overcome the patentable differences between applicants' invention as claimed and either of Nishikawa et al. or Van Gompel et al.

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Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot properly rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

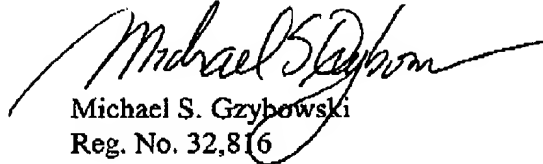
If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of

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time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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